

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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| In the Matters of |) | |
| |) | |
| Provision of Directory Listing Information |) | |
| Under the Communications Act of 1934, |) | CC Docket No. 99-273 |
| As Amended |) | |
| |) | |
| The Use of N11 Codes and Other Abbreviated |) | CC Docket No. 92-105 |
| Dialing Arrangements |) | |
| |) | |
| Administration of the North American |) | CC Docket No. 92-237 |
| Numbering Plan |) | |

COMMENTS OF QWEST CORPORATION

I. INTRODUCTION AND SUMMARY

Qwest Corporation respectfully submits these comments in response to the *Notice of Proposed Rulemaking* released by the Federal Communications Commission (“Commission” or “FCC”) on January 9, 2002.¹ The Commission seeks comment on proposed methods of promoting competition in the retail directory assistance market, including a proposal by Telegate, Inc. (“Telegate”) urging the adoption of 411 presubscription for local voice *wireline* directory assistance offerings. The *Notice* also seeks comment on whether additional or different regulatory action is necessary to promote competition of directory assistance services.

¹ *In the Matter of Provision of Directory Listing Information Under the Communications Act of 1934, As Amended, The Use of N11 Codes and Other Abbreviated Dialing Arrangements, Administration of the North American Numbering Plan*, CC Docket Nos. 99-273, 92-105 and 92-237, *Notice of Proposed Rulemaking*, FCC 01-384, rel. Jan. 9, 2002 (“*Notice*”), *Order*, DA 02-263, rel. Feb. 5, 2002 (extending comment date after publication in the Federal Register), 67 Fed. Reg. 6902 (Feb. 14, 2002).

For the reasons set forth below, and in the attached National Economic Research Associates (“NERA”) Report,² the Commission should not take further regulatory action with respect to local directory assistance services. The evidence does not show that the 411 dialing pattern is a barrier to entry or otherwise hinders competition. In fact, competition for directory assistance services is robust and growing, as the Commission’s past findings in this area confirm.³ The broad variety of available directory assistance services demonstrates that no further Commission action is necessary to promote customer choice and the public interest. And, the fact that incumbent local exchange carriers (“LEC”) have witnessed sharp declines in directory assistance volumes argues against burdening these carriers with any additional costs with respect to the provision of the service.

Qwest continues to oppose 411 presubscription or changes to the North American Numbering Plan (“NANP”) N11 structure.⁴ The evidence already submitted in the record, as well as that to be submitted in response to the current *Notice*, coupled with the Commission’s previous conclusions regarding the state of directory assistance services competition, renders Qwest confident that the Commission will decide to continue with the *status quo*, foregoing any further regulatory action. The public interest would be burdened rather than served by any other course.

² Competition and Regulation for Directory Assistance Services, prepared by William E. Taylor and Harold Ware, National Economic Research Associates, Inc. (“NERA Report”), attached hereto and incorporated herein in its entirety by this reference.

³ See Section III, below.

⁴ Qwest (then U S WEST Communications, Inc.) filed comments opposing Telegate’s proposal (see Comments of Telegate AG, CC Docket No. 99-273, filed Oct. 13, 1999 and ex parte presentation of Telegate, CC Docket No. 99-273, filed Mar. 10, 2000) in response to the Commission’s April 27, 2000 *Public Notice*, 15 FCC Rcd. 7563 (2000).

II. DIRECTORY ASSISTANCE OFFERINGS ARE WIDESPREAD, RESPONSIVE TO CUSTOMER DEMANDS, AND REFLECT EASE OF ENTRY

A. The Provision Of Directory Assistance Services Is Competitive; LECs Have Shrinking Volumes

As the *Notice* reflects, there has already been a substantial body of evidence put on the record regarding the matter of local directory assistance and the Telegate proposal. In addition to comments filed directly by carriers about their own business experiences -- reflecting competition in their territories and declining call volumes, Qwest filed a study by Frost and Sullivan confirming that there was substantial competition in the directory assistance market and that local carriers were experiencing significant reduction in call volumes as a consequence of the competitive alternatives.⁵

The current NERA Report supports the fundamental soundness of the Frost and Sullivan observations.⁶ The Report addresses the economically correct framework for assessing the issues raised by the *Notice*, arguing that an **incremental** costs/benefits analysis is appropriate;⁷ includes factual information detailing the vital state of directory assistance competition in the United States;⁸ provides an explanation why the European directory assistance experience is not

⁵ *Notice* ¶¶ 19-20 (describing Qwest's Frost and Sullivan submission).

⁶ NERA Report at Section III, pp. 47-48.

⁷ *Id.* at Section II, pp. 4-10.

⁸ *Id.* at Section III, pp. 10-47.

comparable to that in the United States;⁹ and outlines a cost-assignment structure should there be a change in regulatory mandates regarding local directory assistance.¹⁰

As is clear by the facts and analyses in the NERA Report, the existence of significant competitive directory assistance alternatives, the declining demand for LEC local voice directory assistance offerings, and the limited number of customers constituting that demand, argue against the adoption of regulations that will impose additional costs on carriers. Any reasoned analysis must begin by acknowledging that directory assistance offerings abound in the United States. They range from the fairly basic wireline directory assistance offerings provided by LECs (both incumbent and competitive) to elaborate information services that provide movie reviews and other helpful information in addition to telephone numbers.¹¹

At the same time service providers and types of directory assistance offerings have increased, local wireline customers calling LEC directory assistance has become quite limited and overall call volumes have decreased. For example, Qwest has advised the Commission that 80% of calls to its directory assistance are made by 5% of its customers.¹² Moreover, LEC

⁹ *Id.* at Section IV, pp. 48-56. Adoption of the European approach would be contrary to the evidence in the record and sound public policy because the underlying provisioning of telecommunications services lags behind the United States (for example, presubscription to interexchange services is only now being realized in Europe) and the European directory assistance market lacks significant competitive alternatives.

¹⁰ *Id.* at Section V, pp. 57-60.

¹¹ *See id.* at Section III, pp. 10-47.

¹² Letter from Mary L. Henze, Executive Director, BellSouth Corporation, to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, dated June 6, 2001 (filed on behalf of BellSouth, SBC, Verizon and Qwest) at 1 of Attachment, dated June 5, 2001 (“BOC June 6 *Ex Parte*”); Letter from Mary L. Henze, Executive Director, BellSouth Corporation, to Ms. Magalie Roman Salas, Secretary, Federal Communications Commission, dated October 31, 2001 (filed on behalf of BellSouth, SBC, Verizon and Qwest) at 2 of Attachment, dated October 30, 2001 (“BOC October 31 *Ex Parte*”).

One might ask whether something could be done to turn the tide on these decreases. Qwest thinks not. For example, it enjoyed a significant spike in call volumes immediately after it began

overall calling demand for voice wireline directory assistance offerings has decreased.¹³ Since 1996 the Bell Operating Companies (“BOCs”) have realized a 50% reduction in call volumes.¹⁴ Thus, the additional costs of regulations sought by Telegate would be borne by carriers for the benefit of only a few customers.

The picture has not improved for LECs’ local voice directory assistance services since call volumes were last reported in 2001, although overall customer choices have continued to increase. The attached NERA Report confirms the decline in LEC directory assistance call volumes,¹⁵ yet attests to the strong state of competition in the directory assistance market and the wide variety of consumer choices (*i.e.*, substitutes) available beyond local voice wireline directory assistance.¹⁶ And, competition in the directory assistance market continues to grow while LEC participation in that market shrinks. Still, the overall public interest is met through

offering national directory assistance, but call volumes have since fallen. Since much of the decrease in LEC-calling volumes is associated with shifts in customers’ telecommunications calling behavior to other service providers (and is not the result of “low quality” of LEC offerings (*see* note 14 *infra*)), Qwest believes that LEC local voice directory assistance cannot be so materially changed -- no matter how laden with “helpful information” local voice wireline directory assistance services tries to become -- that the trend of decreasing call volumes can be reversed.

¹³ *See* Notice ¶ 17. *And see In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Third Report and Order and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd. 3696, 3894-95 ¶¶ 447-49 (1996) (“*UNE Remand Order*”), *pets. for recon. pending, oral argument held Mar. 7, 2002, sub nom. United States Telecom Association v. FCC*, No. 00-1015, *et al.* (D.C. Cir.) (noting that the increase in directory assistance offerings “coincide[d] with a decrease in incumbent LEC [operator service/directory assistance] call volumes.”).

¹⁴ *See* BOC June 6 *Ex Parte* at 1; BOC October 31 *Ex Parte* at 2. *See also* Notice ¶ 18 (inquiring as to reasons for reduction in demand). As Qwest has advised in *Ex Partes*, lack of service quality is not the reason for the reduction in demand. BOC June 6 *Ex Parte* at *id.*; BOC October 31 *Ex Parte* at 3.

¹⁵ NERA Report at Section III, pp. 28-30.

¹⁶ *Id.* at Section III, *generally*.

the current availability of choices to secure information about where persons and places are located and how they can be reached.

B. Competitive LEC and Wireless Directory Assistance Offerings Affect Analysis

Among the variety of directory assistance choices available to consumers, two deserve special attention with respect to analyses of LEC directory assistance offerings and the need for additional regulation -- offerings by competitive LECs (“CLEC”) and wireless providers. To the extent local exchange customers leave incumbent LECs, they generally receive service from a CLEC or choose to become “untethered” through wireless services. In both cases, the shifts result in decreased LEC call volumes and increases elsewhere in the directory assistance market. Both types of telecommunications providers utilize “packaged” directory assistance, accomplished through wholesale contracts with directory assistance providers.

As customers leave incumbent LECs for CLECs, LECs see decreases in call volumes at a retail level.¹⁷ If the CLEC does not resell the LEC’s directory assistance services, LECs realize a loss of call volume at the wholesale level, as well.¹⁸

With respect to wireless directory assistance, along with the freedom from being tethered, the customer faces a potential lack of access to printed or electronic directory assistance resources. The result is substantial increases in wireless directory assistance call volumes, which are expected to continue to increase.¹⁹

¹⁷ *Id.* at Section III, pp. 17-18, 30-34.

¹⁸ Qwest understands that the Commission’s focus in this rulemaking is on the retail delivery of directory assistance services, rather than wholesale relationships. *Notice* ¶ 13. However, as is not uncommon, the nature of the wholesale market drives the retail service opportunities. NERA Report at Section III, pp. 18-19.

¹⁹ *See id.* at Section III, pp. 17-18.

C. Shifting Directory Assistance Uses Resulting From Wholesale Relationships

CLECs offer local directory assistance offerings through a variety of mechanisms. They might self-provision directory assistance or contract with incumbent LECs for such services through resale agreements. However, they might instead enter into a wholesale agreement for the service directly with an independent directory assistance provider.²⁰ The CLEC's customers will have no "presubscribed" choice with respect to their directory assistance service provider. Those customers will be able to exercise "choice" with respect to directory assistance provider only by dialing directly to the alternative provider.

Wireless carriers' customers interact with a directory assistance provider chosen by the wireless carrier,²¹ similar to the way these customers interact with an interexchange service provider chosen by the wireless carrier.²² The service providers for both services (directory assistance and interexchange services) are chosen by the wireless carrier through a wholesale agreement and are packaged with the wireless provider's service offering to the retail customer. As with CLEC customers, "alternative" directory assistance services (*e.g.*, customer choice) are available to the customer through dialing other access numbers.

Final resolution of whether or not something must be changed or modified with respect to local wireline voice directory assistance must take into account these customer shifts regarding directory assistance. Allowing 411 presubscription in a market segment that is decreasing would not serve the overall public interest.

²⁰ Notice ¶¶ 22, 39.

²¹ If these carriers have a LEC-affiliate, they may contract with that affiliate for the service.

²² Wireless carriers have no current "equal access" obligation. Notice ¶ 40 and 47 U.S.C. § 332(c)(8).

III. PRIOR COMMISSION DECISIONS ADDRESSING THE STATE OF DIRECTORY ASSISTANCE COMPETITION AND THE PUBLIC INTEREST PRECLUDE MANDATED 411 PRESUBSCRIPTION

The Commission has three times found the provision of directory assistance to be competitive;²³ and twice held that the public interest did not require any change or modification to the incumbent LEC 411 dialing pattern.²⁴ The Commission's prior pronouncements have been

²³ See *In the Matter of Petition of U S WEST Communications, Inc. for a Declaratory Ruling Regarding the Provision of National Directory Assistance, Petition of U S WEST Communications, Inc. for Forbearance, the Use of N11 Codes and Other Abbreviated Dialing Arrangements, Memorandum Opinion and Order*, 14 FCC Rcd. 16252, 16257 ¶ 10 and n.19 (referencing AT&T's and MCI's directory assistance offerings), 16261-62 ¶ 16, 16276 ¶ 42 (finding that directory assistance services were available from sources other than incumbent LECs, citing to services offered by CLECs), 16271 ¶ 33 (noting that there is already competition in the nonlocal directory assistance market from other carriers, "from Internet service providers, providers of payphone and cellular telephone services, and independent directory assistance service providers") and n.87 (identifying some of these competitors), 16279 ¶ 50 and n.108 (again referencing AT&T's and MCI's directory assistance offerings), 16276 ¶ 43 (noting that "AT&T and MCI do not appear to have been deterred from providing nonlocal directory assistance service") (*"U S WEST National DA Order"*)(1999).

In a *Notice of Proposed Rulemaking* investigating the propriety of expanding the provision of directory information to carriers, the FCC found that "[t]he provision of directory assistance has become increasingly competitive" spurred by a "market-driven demand" already in existence ranging from CLECs to interexchange carriers to business and residential customers. See *In the Matters of Implementation of the Telecommunications Act of 1996: Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Provision of Directory Listing Information under the Telecommunications Act of 1934, As Amended, Third Report and Order in CC Docket No. 96-115, Second Order on Reconsideration of the Second Report and Order in CC Docket No. 96-98, and Notice of Proposed Rulemaking in CC Docket No. 99-273*, 14 FCC Rcd. 15550, 15645-46 ¶ 183, 15648-49 ¶ 190 (1999).

Yet again, in the *UNE Remand Order*, the Commission removed directory assistance services from the list of unbundled network elements because of the robustly competitive nature of the directory assistance offerings. See *UNE Remand Order*, 15 FCC Rcd. at 3891-92 ¶ 441 ("evidence of multiple alternative providers of [operator service/directory assistance] service in the marketplace"), 3894-95 ¶¶ 447-48 (noting that DA providers have existed since divestiture and that "competition has accelerated in the directory assistance market"), ¶ 449 ("the existence of multiple alternative providers of [operator service/directory assistance] service in the marketplace").

²⁴ And, in an earlier decision addressing the 411 dialing prefix, the Commission determined that the public interest would not be served by divesting carriers of that dialing prefix or eliminating

broad in scope, involving national directory assistance offerings, as well as local directory assistance offerings provided by LECs and CLECs. These findings demonstrate the lack of any public interest need for regulatory intervention in this area. In addition, these findings demonstrate that no sound cost/benefit analysis could support granting the relief Telegate seeks.

Since the association of 411 dialing with LEC local voice wireline directory assistance offerings promotes the interests of consumers and does no harm to the adjacent non-basic directory assistance environment, the question is whether the continued utilization of this prefix for incumbent (and resold CLEC and wireless) directory assistance offerings somehow impedes the ability of non-carrier directory assistance providers to promote and provision directory assistance services. Hardly. As the NERA Report demonstrates, the decline in the LECs' local voice wireline directory assistance calling volumes and the increase in others' directory assistance offerings proves there is no barrier to entry in the local directory assistance market and that competitive inroads are significant and sustained. Since there has been no demonstration that the Commission's past determinations allowing continued provision of 411 directory services by LECs have impeded competition,²⁵ resulted in unreasonable discrimination,²⁶ or harmed the public interest,²⁷ the Telegate proposal must be denied.

its easy access from the consuming public. *See In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, First Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd. 5572, 5600 ¶ 47 (1997). *And see In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Second Report and Order and Memorandum Opinion and Order*, 11 FCC Rcd. 19392, 19464 ¶ 151 (concluding that no action was necessary to change the LEC directory assistance dialing arrangements or to require any alternative codes for access to directory assistance)(1996).

²⁵ *See U S WEST National DA Order*, 14 FCC Rcd. at 16271-72 ¶ 34, 16276-77 ¶ 43.

²⁶ *Id.* at 16276-77 ¶ 43.

²⁷ *Id.* at 16277 ¶ 44, 16279-80 ¶ 51.

IV. CONCLUSION

The facts and economics associated with current wireline local directory assistance services demonstrate that the existing environment does not need -- and cannot support -- the kind of radical overhaul proposed by Telegate. Nor, as the Commission has previously concluded, would consumers be benefited by a materially different regulatory regime for the dialing or delivery of local voice wireline directory assistance.

For the reasons stated above, the Commission should not promulgate rules adopting Telegate's 411 presubscription. Rather, it should find the *status quo* is in the public interest from the perspective of both competition and consumer accommodation.

Respectfully submitted,

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April 1, 2002

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused the foregoing **COMMENTS OF QWEST CORPORATION** to be filed with the FCC via its Electronic Comment Filing System, and a copy of the **COMMENTS** to be served, via email, on the parties listed below.*

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April 1, 2002

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